

## UNITED STATES DISTRICT COURT

for the

Western District of Texas

United States of America

v.

Nicholas Gumbardo

Case No. **SA:24-MJ-00201**Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of February 8, 2024 in the county of BEXAR in the  
WESTERN District of TEXAS, the defendant(s) violated:*Code Section**Offense Description*

18 U.S.C. § 924(c)

Possession of Firearm in Furtherance of a Drug Trafficking Crime

PENALTIES: Not less than 5 Years Imprisonment, \$250,000 Fine, 3  
Years Supervised release, \$100 Mandatory Special Assessment

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT

☒ Continued on the attached sheet.*Matthew Eller**Complainant's signature*

Matthew Eller, SA ATF

*Printed name and title*☐ Sworn to before me and signed in my presence.☒ Sworn to telephonically and signed electronically.Date: February 9, 2024City and state: San Antonio, Texas*Judge's signature*

HENRY J. BEMPORAD, US MAGISTRATE JUDGE

*Printed name and title*

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT**

I, Special Agent Matthew Eller, being duly sworn do hereby depose and state:

1. I am currently employed as a Special Agent (SA) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and have been so employed since May 2023. Since May 2023, your affiant has participated in investigations concerning violations of Title 18.
2. On February 6<sup>th</sup>, 2024, I received a federal search warrant for a residence located on Violeta Place in the Western District of Texas in San Antonio. I executed the search warrant on February 8<sup>th</sup>, 2024. Pursuant to that search warrant, I located a bedroom within the residence containing approximately 419 grams of marijuana. I found 1 large plastic bag of marijuana on top of a 3-drawer plastic storage container. On the same plastic storage container, directly in front of the large plastic bag of marijuana, I located a black Glock generation 5 model 26 handgun with a backplate that read "Veteran". The handgun had a round of ammunition in the chamber as well as a loaded extended magazine inside of it.
3. Next to the 3-drawer plastic container in this bedroom, there was a laundry hamper. Inside the hamper there was a smaller sandwich bag full of marijuana next to a large AR-style pistol. Also, in the hamper there was a red backpack containing approximately 18 grams of THC disposable pens.
4. Witnesses, fellow residents in the home, stated that bedroom belonged to Nicholas Gumbardo and his girlfriend. Agents located legal paperwork addressed to Gumbardo in the bedroom where the guns and marijuana were located. This paperwork was from Gumbardo's criminal attorney, Patrick Lamas, concerning his pending State case for Possession of Marijuana, Unlawful Carry of Weapon, and Possession of Prohibited Firearm Short-Barrel. In addition, when we executed the search warrant, I observed Gumbardo exit that bedroom.
5. Shortly after executing the search warrant, I read Gumbardo his constitutional and statutory rights, and Gumbardo waived those rights. During the voluntary custodial interview, Gumbardo admitted he stays in this bedroom with his girlfriend and that he sells marijuana. Gumbardo denied ownership of the gun closest to the marijuana, but admitted he has held and shot this handgun on different dates.
6. Based on my training and experience, the substance appeared to be consistent with the smell, appearance, and packaging of marijuana. Additionally based on my training and experience involving illegal transactions of controlled substances, I know that sellers of controlled substances, like marijuana, believe they need to protect themselves, their

product, and their proceeds. I believe Gumbardo utilized the recovered Glock handgun in this case to protect these during transactions for controlled substances.

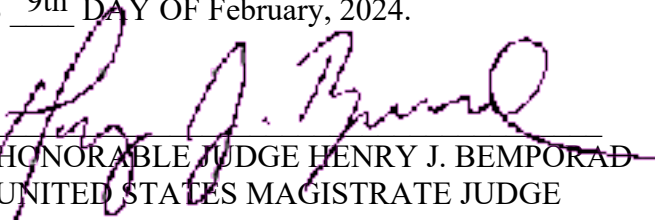
Based on the above facts, your affiant believes that there is probable cause that **Nicholas Gumbardo** knowingly committed the offenses of carrying a firearm in relation to drug trafficking, in violation of 18 U.S.C. § 924(c)

*Matthew Eller*

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Special Agent Matthew Eller  
Bureau of Alcohol, Tobacco, Firearms, and  
Explosives

SUBSCRIBED AND SWORN TO ME THIS 9th DAY OF February, 2024.

  
HONORABLE JUDGE HENRY J. BEMPORAD  
UNITED STATES MAGISTRATE JUDGE